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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,239	12/08/2003	Gloria J. Kerszykowski	SC12908ZP	2519
23125	7590	07/11/2005	EXAMINER	
FREESCALE SEMICONDUCTOR, INC. LAW DEPARTMENT 7700 WEST PARMER LANE MD:TX32/PL02 AUSTIN, TX 78729			LE, VU ANH	
			ART UNIT	PAPER NUMBER
			2824	

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/730,239

Applicant(s)

KERSZYKOWSKI ET AL.

Examiner

Vu A. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 26-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,12,15,16 and 23 is/are rejected.
- 7) ☒ Claim(s) 3-11,13,14,17-22,24 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/08/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 12, 15-16, 23 are rejected under 35 U.S.C. 102(e) as being anticipate by Ooshi et al (US 2003/0156449).

Ooshi et al (Fig.5) disclose a semiconductor derive, comprising a semiconductor substrate (SUB) having a first portion for an MRAM (10) and a second portion for a first circuit type (9 and 4), wherein the first circuit type is different than MRAM, first front end circuitry (ATR and portion over SUB) for the MRAM over the first portion in the substrate, second front end circuitry (ML1 over sections 9 and 4) for the first circuit type in the second portion of the substrate, an MRAM cell over the first front end circuitry, wherein the MRAM cell uses a first metal layer (ML2) for a first program line, and a metal interconnect over the second front end circuit, wherein the metal interconnect uses the first metal layer to provide interconnect for the first circuit type (ML2 is used as WDL and 360 in section 9 and 5 in section 4), wherein a second metal layer (ML3) for a second program

line and the metal interconnect is further characterized as using the second metal layer to provide interconnect for the first type of circuitry (ML3 is used BL and interconnect layer in sections 9 and 4).

***Allowable Subject Matter***

3. Claims 3-11, 17-22 and 24-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: claims 3-11, 17-22 and 24-25 recite a third metal layer over the first and second metal layers and a fourth metal layer over the third metal layer or a third metal layer over the first and second metal layers and located between the first portion and the second portion.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Hidaka (6,903,963) discloses a MTJ memory cell using metal 1 and metal 2.

7. Zhang (6,861,715) discloses a 3D-MRAM.

8. Miyatke et al (6,842,361) disclose a MRAM circuit.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vu A. Le whose telephone number is (571) 272-1871.

The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Elms can be reached on (571) 272-1869. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vu A. Le  
Primary Examiner  
Art Unit 2824

07/08/05